

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:

MADISON SQUARE BOYS & GIRLS CLUB, Chapter 11
INC. Case No. 22-10910 (SHL)

Debtors.

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**LIMITED OBJECTION OF THE CITY OF NEW YORK AND NEW YORK CITY
ECONOMIC DEVELOPMENT CORPORATION TO DEBTOR'S PLAN OF
REORGANIZATION AND FINAL APPROVAL OF DISCLOSURE STATEMENT
RELATING TO PROPOSED ASSUMPTION OF EXECUTORY CONTRACTS AND
UNEXPIRED LEASES**

The City of New York (the "City") and its agencies, and the New York City Economic Development Corporation ("EDC"), by their counsel, Hon. Sylvia Hinds-Radix, Corporation Counsel of the City of New York, as and for their limited objection to the Plan of Reorganization and to final approval of the Disclosure Statement of Madison Square Boys & Girls Club, Inc., debtor and debtor-in-possession (the "Debtor"), respectfully state as follows:

The Plan Supplement

1. The Debtor filed a Plan Supplement on May 26, 2023, with attached Exhibit D, entitled "Schedule of Assumed Executory Contracts and Unexpired Leases" (the "Schedule").
2. The Schedule lists several purported contracts with the City, including, in particular, with the New York City Department of Youth and Community Development ("DYCD") (the "Listed Contracts"). See pages 5-6 of the Schedule.
3. In addition, the Debtor asserts on Exhibit D: "For the avoidance of doubt, to the extent that any Executory Contract or Unexpired Lease is not included on Exhibit D to this Plan Supplement, such Executory Contracts and Unexpired Leases shall be deemed

assumed as of the Effective Date the Plan, unless otherwise provided in the Plan or the Confirmation Order.” (the “Unlisted Contracts”).

The Reservation of Rights

4. Furthermore, the Debtor asserts on Exhibit D the following reservation of rights (the “Reservation of Rights”) regarding the purported contracts and leases:

Nothing herein shall be construed as a concession or evidence that any of the contracts or leases herein: (i) constitutes an “executory contract” or “unexpired lease” within the meaning of 11 U.S.C. § 365 and other applicable law; or (ii) has not expired, been terminated, or otherwise currently is in full force and effect. Rather, the Debtor and the Reorganized Debtor, as applicable, expressly reserve all rights with respect thereto, including their right to seek a later determination of these issues and their right to dispute the validity, status, characterization, or enforceability of any contracts, agreements, or lease set forth herein.

5. The City does not object to the Debtor’s assertion of the Reservation of Rights. Rather, the City, NYCD and EDC assert that they each should be accorded the same reservation of their respective rights with regard to each and every of the Listed Contracts and Unlisted Contracts.
6. Bankruptcy Courts have recognized that certain types of relationships between a debtor and the City are not within the ambit of the assumption and assignment provisions of Section 365 of the Bankruptcy Code. See, e.g., *In re Yachthaven Rest., Inc.*, 103 B.R. 68 (Bankr. E.D.N.Y. 1989) (involving a license to use real property at the World’s Fair Marina in Queens, NY); *see also*, *In re M.J. & K. Co.*, 161 B.R. 586 (Bankr. S.D.N.Y. 1993) (involving a license to run a bookstore at Brooklyn Law School.)
7. The City and EDC will continue discussions with the Debtor regarding their future relations. Accordingly, there does not appear to be a controversy as to these issues at the present time. The City and EDC are filing this Limited Objection to state their

positions at this time in order to preserve and reserve their rights, in the event that the
issue needs to be addressed in the future.

Dated: New York, New York
June 11, 2023

HON. SYLVIA HINDS-RADIX
Corporation Counsel of the City of New York
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